

Original

**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

Name Boddie Roderick  
 (Last) (First) (Initial)

Prisoner Number K-58959

Institutional Address P.O. Box 689 Soledad, CA. 93960-0689

**FILED**

APR 14 2008

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

RODERICK BODDIE

(Enter the full name of plaintiff in this action.)

vs.

BEN CURRY, (Warden (A))

(Enter the full name of respondent(s) or jailor in this action)

CV

08

1957

Case No. \_\_\_\_\_  
 (To be provided by the clerk of court)

**PETITION FOR A WRIT  
 OF HABEAS CORPUS**

SBA

E-filing

(PR)

**Read Comments Carefully Before Filling In****When and Where to File**

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

PET. FOR WRIT OF HAB. CORPUS

- 1 -

008-1957-SBA

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

Santa Clara County Superior San Jose, CA.

Court	Location
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(b) Case number, if known 191019

(c) Date and terms of sentence 7-11-97; 30 years to life

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes x No       

Where?

Name of Institution: Correctional Training Facility

Address: P.O. Box 689 Soledad, CA. 93960-0689

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)  
Robbery §§211/212.5(B)

3. Did you have any of the following?

Arraignment: Yes   x   No       

Preliminary Hearing: Yes   x   No       

Motion to Suppress: Yes \_\_\_\_\_ No \_\_\_\_\_

**4. How did you plead?**

Guilty \_\_\_\_\_ Not Guilty   x   Nolo Contendere \_\_\_\_\_

Any other plea (specify) \_\_\_\_\_

5. If you went to trial, what kind of trial did you have?

Jury X Judge alone \_\_\_\_\_ Judge alone on a transcript \_\_\_\_\_

6. Did you testify at your trial? Yes \_\_\_\_\_ No   x  

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes x No       

(b) Preliminary hearing Yes x No       

(c) Time of plea Yes x No       

(d) Trial Yes   X   No       

(e) Sentencing Yes   x   No       

(f) Appeal Yes x No       

(g) Other post-conviction proceeding Yes \_\_\_\_\_ No x

8. Did you appeal your conviction? Yes x No       

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes   x   No       

Year: Unk Result: Conviction Affirmed

Supreme Court of California Yes   x   No       

Year: Unk Result: Review denied

Any other court Yes \_\_\_\_\_ No \_\_\_\_\_

Year: \_\_\_\_\_ Result: \_\_\_\_\_

(b) If you appealed, were the grounds the same as those that you are raising in this

petition?

Yes \_\_\_\_\_ No x

(c) Was there an opinion?

Yes \_\_\_\_\_ No \_\_\_\_\_

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes \_\_\_\_\_ No \_\_\_\_\_

If you did, give the name of the court and the result:

N/A

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes \_\_\_\_\_ No x

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: Santa Clara County Superior Court  
Type of Proceeding: Habeas Corpus

Grounds raised (Be brief but specific):

a. Breach of Contractb. Trial Court failure to construe plea bargain in accordance with state contract law

c. \_\_\_\_\_

d. \_\_\_\_\_

Result: Denied Date of Result: 10-17-06

II. Name of Court: Court of Appeal Sixth Appellate District

Type of Proceeding: Habeas Corpus

Grounds raised (Be brief but specific):

a. (Same As Above)

b.

c.

d.

Result: Denied Date of Result: 11-20-06

III. Name of Court: California Supreme Court

Type of Proceeding: Habeas Corpus

Grounds raised (Be brief but specific):

a. (Same as Above)

b.

c.

d.

Result: Denied Date of Result: 5-23-07

IV. Name of Court:

Type of Proceeding:

Grounds raised (Be brief but specific):

a.

b.

c.

d.

Result: Date of Result:

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes x No

Name and location of court: U.S. District Court/Northern Dist.

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 This petition meets the criteria under section  
6 Claim One: 2254 and is neither second nor successive.

7 Supporting Facts: Although attacking the same judgment as the  
8 earlier petition, the earlier petition did not produce  
9 a judgment on the merits of the claims presented. Furth-  
10 ermore, the claims in this petition could not have been  
11 brought up in conjunction with the earlier petition, as  
12 events giving rise to the claims did not occur until after  
13 the conclusion of the earlier petition.

14 Claim Two: The trial court breached the contract made with the  
15 Petitioner violating the 14th Amend. Due Process Clause.

16 In 1990, Petitioner entered into a plea agree-  
17 Supporting Facts: ment with the State of California pleading guilty to a  
18 three count single information that was subsequently used  
19 by the State as multiple convictions for the purpose of the  
20 Three Strikes Law in 1997, thereby breaching the contract.

21 Claim Three:

22 Supporting Facts:

23 If any of these grounds was not previously presented to any other court, state briefly which  
24 grounds were not presented and why:

25 \*Each ground was presented in the superior court, court of  
26 appeal, and California Supreme Court (Orders Appended at  
27 Appendix A).

1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:

4 Santobello v. New York, 404 U.S. 257, 261-62 (1971); Davis v.  
5 Woodford (2006) 446 F.3d (9th Cir.)

6 \_\_\_\_\_  
7 Do you have an attorney for this petition?

Yes \_\_\_\_\_ No x

8 If you do, give the name and address of your attorney:  
9 \_\_\_\_\_

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12  
13 Executed on

March 27, 2008

14 Date

Frederick Budde

Signature of Petitioner

15  
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20 (Rev. 6/02)

Case Number: \_\_\_\_\_

**CERTIFICATE OF FUNDS**  
**IN**  
**PRISONER'S ACCOUNT**

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of \_\_\_\_\_ for the last six months at

[prisoner name]

\_\_\_\_\_ where (s)he is confined.

[name of institution]

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ \_\_\_\_\_ and the average balance in the prisoner's account each month for the most recent 6-month period was \$ \_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Authorized officer of the institution]



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RODERICK BODDIE

Plaintiff,

vs.

BEN CURRY, Warden (A)

Defendant.

CASE NO. \_\_\_\_\_

**PRISONER'S  
APPLICATION TO PROCEED  
IN FORMA PAUPERIS**

I, Roderick Boddie, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes \_\_\_\_ No x

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: \_\_\_\_\_ Net: \_\_\_\_\_

Employer: \_\_\_\_\_

\_\_\_\_\_

1 If the answer is "no," state the date of last employment and the amount of the gross and net  
 2 salary and wages per month which you received. (If you are imprisoned, specify the last  
 3 place of employment prior to imprisonment )

4 UNK

5  
 6  
 7 2. Have you received, within the past twelve (12) months, any money from any of the  
 8 following sources:

9 a. Business, Profession or Yes \_\_\_\_ No X  
 10 self employment

11 b. Income from stocks, bonds, Yes \_\_\_\_ No X  
 12 or royalties?

13 c. Rent payments? Yes \_\_\_\_ No X

14 d. Pensions, annuities, or Yes \_\_\_\_ No X  
 15 life insurance payments?

16 e. Federal or State welfare payments, Yes \_\_\_\_ No X  
 17 Social Security or other govern-  
 18 ment source?

19 If the answer is "yes" to any of the above, describe each source of money and state the amount  
 20 received from each.

21  
 22  
 23 3. Are you married? Yes \_\_\_\_ No X

24 Spouse's Full Name: \_\_\_\_\_

25 Spouse's Place of Employment: \_\_\_\_\_

26 Spouse's Monthly Salary, Wages or Income:

27 Gross \$ \_\_\_\_\_ Net \$ \_\_\_\_\_

28 4. a. List amount you contribute to your spouse's support: \$ \_\_\_\_\_

1 b. List the persons other than your spouse who are dependent upon you for  
 2 support and indicate how much you contribute toward their support. (NOTE:  
 3 For minor children, list only their initials and ages. DO NOT INCLUDE  
 4 THEIR NAMES.).

5 None

6  
 7 5. Do you own or are you buying a home? Yes \_\_\_\_ No x

8 Estimated Market Value: \$ \_\_\_\_\_ Amount of Mortgage: \$ \_\_\_\_\_

9 6. Do you own an automobile? Yes \_\_\_\_ No x

10 Make \_\_\_\_\_ Year \_\_\_\_\_ Model \_\_\_\_\_

11 Is it financed? Yes \_\_\_\_ No \_\_\_\_ If so, Total due: \$ \_\_\_\_\_

12 Monthly Payment: \$ \_\_\_\_\_

13 7. Do you have a bank account? Yes \_\_\_\_ No x (Do not include account numbers.)

14 Name(s) and address(es) of bank: \_\_\_\_\_

15 \_\_\_\_\_

16 Present balance(s): \$ \_\_\_\_\_

17 Do you own any cash? Yes \_\_\_\_ No x Amount: \$ \_\_\_\_\_

18 Do you have any other assets? (If "yes," provide a description of each asset and its estimated  
 19 market value.) Yes \_\_\_\_ No \_\_\_\_

20 \_\_\_\_\_

21 8. What are your monthly expenses?

22 Rent: \$ \_\_\_\_\_ 0 Utilities: \_\_\_\_\_ 0

23 Food: \$ \_\_\_\_\_ 0 Clothing: \_\_\_\_\_ 0

24 Charge Accounts:

25 Name of Account Monthly Payment Total Owed on This Acct.

26 N/A \$ \_\_\_\_\_ \$ \_\_\_\_\_

27 \$ \_\_\_\_\_ \$ \_\_\_\_\_

28 \$ \_\_\_\_\_ \$ \_\_\_\_\_ 9. Do

1 you have any other debts? (List current obligations, indicating amounts and to whom they are  
2 payable Do not include account numbers.)

3 None  
4 \_\_\_\_\_

5 10. Does the complaint which you are seeking to file raise claims that have been presented  
6 in other lawsuits? Yes \_\_\_\_ No x

7 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in  
8 which they were filed.

9 \_\_\_\_\_  
10 \_\_\_\_\_

11 I consent to prison officials withdrawing from my trust account and paying to the court  
12 the initial partial filing fee and all installment payments required by the court.

13 I declare under the penalty of perjury that the foregoing is true and correct and  
14 understand that a false statement herein may result in the dismissal of my claims.

15  
16 March 27, 2008 Federick Beallie  
17 DATE SIGNATURE OF APPLICANT

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**APPENDIX A**

**S148501**

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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In re RODERICK BODDIE on Habeas Corpus

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The petition for writ of habeas corpus is denied.

**SUPREME COURT  
FILED**

**MAY 28 2007**

**Frederick K. Ohlrich Clerk**

**DEPUTY**

**GEORGE**

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Chief Justice

**PROOF OF SERVICE BY MAIL  
BY PERSON IN STATE CUSTODY**

(C.C.P. §§ 1013(A), 2015,5)

I, Roderick Boddie, declare:

I am over 18 years of age and I am party to this action. I am a resident of CORRECTIONAL TRAINING FACILITY prison, in the County of Monterrey, State of California. My prison address is:

Roderick Boddie, CDCR #: K-58959  
CORRECTIONAL TRAINING FACILITY  
P.O. BOX 689, CELL #: DW-124L  
SOLEDAD, CA 93960-0689.

On March 31, 2008, I served the attached:  
Petition For Writ of Habeas Corpus

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on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope (verified by prison staff), with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named institution in which I am presently confined. The envelope was addressed as follows:

United States District Court  
Northern District of California  
U.S. Courthouse  
450 Golden Gate Ave.  
San Francisco, CA. 94102-3483

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 31, 2008.

Roderick Boddie  
Roderick Boddie  
Declarant In Pro Per

Roderick Boddie K-58959  
Central Facility O-wing 124-L  
P.O. Box 689  
Soledad, CA 93960

United States District Court  
Northern District of California  
U.S. Courthouse  
450 Golden Gate Ave.  
San Francisco, CA 94102-3483